

CLASSIFICATION OFFICE DECISION

Title of publication: 636 Photo Aug 14 6 09 02 PM.jpg

Other known title(s): Not stated

OFLC ref: 1600422.005

Medium: Computer Image File

Publisher: Not stated

Country of origin: Not stated

Language: Not applicable

Applicant: Secretary for Internal Affairs

Classification:	Objectionable.
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Descriptive note: None

Display conditions: None

Date of entry in Register: 24 June 2016

Date of direction to issue a label: No direction to issue a label has been issued

Date of notice of decision: 24 June 2016

Summary of reasons for decision:

The image is classified as objectionable as it deliberately focuses on a prepubescent girl's naked body as she lies in the bath. While the image is similar in character to an innocent family photograph at this point it has been downloaded from the internet, its origin is unknown and it has no family context. It is clearly capable of being regarded as sexual in nature as it is likely to be regarded in this way by the only people who would be interested in an anonymous image of a naked child. No ordinary person has a legitimate reason to be looking at a prepubescent girl in the bath or shower. The image does not reach the high threshold required to establish promotion or support for the exploitation of children for sexual purposes. However, the image exploits the nudity of a child to a high extent and degree. No plausible alternative context or purpose is available and the image has been distributed on the internet, further adding to the exploitation. The classification of the publications limits the right to freedom of expression set out in the New Zealand Bill of Rights Act 1990. However, this is an outcome that is consistent with Parliament's intention in the Films, Videos, and Publications Classification Act 1993. Parliament was concerned to protect the interests of children and the legislation asks the Classification Office to explicitly address child nudity. The decision is reasonable and demonstrably justified. It reflects the concern of a free and democratic society to protect its young and vulnerable members from sexual exploitation.